

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,  
Plaintiffs,**

**v.**

**BRAD RAFFENSPERGER, ET AL.,  
Defendants.**

**Civil Action No. 1:17-CV-2989-AT**

**COALITION PLAINTIFFS' NOTICE OF FILING DISCOVERY AND  
ADDITIONAL BRIEFING ON RELEVANCE**

Coalition Plaintiffs file this Notice for two reasons. First, Coalition Plaintiffs files as Exhibit 1 the attached discovery that was the subject of the Court's hearing today. The attachment is the State's Objections to Coalition Plaintiffs' 4<sup>th</sup> Request for Production of Documents, which also shows the Coalition Plaintiffs' requests themselves.

Second, Coalition Plaintiffs respond to the State's repeated statement that the subject matter of this discovery was dismissed by the Court when it dismissed Count III of Coalition Plaintiffs' Supplemental Complaint. To the contrary: The Coalition Plaintiffs' First Supplemental Complaint (the "FSC," Doc. 628) mounts an "as-applied" challenge to Georgia's implementation of the "Dominion BMD System," which is expressly defined to encompass all components of the system—

listed in ther FSC as the election management software, adjudication software, ballot marking devices and firmware, precinct scanners and firmware, and central-count scanners and firmware, (*Id.* at 23, ¶ 67), and subsequently expanded as a result of the State’s own definition and certification of the electronic pollbooks as part of the voting system during the pendency of this litigation.

The FSC alleges that the State Defendants’ intended use of the “Dominion BMD System” in upcoming elections will cause imminent violations of the fundamental right to vote, (Count I, Doc. 628, at 67–69), and of the Fourteenth Amendment’s guarantee of equal protection, (Count II, *id.* at 70–72.)<sup>1</sup>

Respectfully submitted this 21<sup>st</sup> day of August, 2020.

/s/ Bruce P. Brown

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<sup>1</sup> Coalition Plaintiffs also allege that the Dominion BMD System violates the right to procedural due process, (Count III, Doc. 628, at 72–74), but this Court dismissed Count III without prejudice. (Doc. 751, at 45–51.) The FSC also contains numerous other material allegations that are not pertinent to this Motion.

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**CERTIFICATE OF COMPLIANCE**

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ Bruce P. Brown  
Bruce P. Brown

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**Civil Action No. 1:17-CV-2989-AT**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 21, 2020, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ Bruce P. Brown  
Bruce P. Brown

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

DONNA CURLING, et al.,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION FILE
BRAD RAFFENSPERGER, et	)	NO. 1:17-cv-2989-AT
al.,	)	
Defendant.	)	

**STATE DEFENDANTS' OBJECTIONS AND RESPONSES TO  
COALITION PLAINTIFFS' FOURTH REQUEST FOR PRODUCTION  
OF DOCUMENTS**

COME NOW Defendants Brad Raffensperger, David J. Worley, Rebecca N. Sullivan, Anh Le, and Matthew Mashburn (collectively, the "State Defendants"), in their official capacities by and through their counsel of record and respond to Plaintiff Coalition for Good Governance's ("Coalition Plaintiffs" or "Plaintiffs") Fourth Request for Production of Documents as follows:

**RESPONSES TO REQUESTS**

**Request for Production No. 1:**

All documents relating to software updates or changes to the Election System during 2020, including but not limited to documents reflecting system

or component certification, testing reports, studies, findings, evaluations, or system documentation.

**Response:** State Defendants object to this Request as it seeks documents that may contain confidential information, trade secrets, sensitive election security information, and/or state secrets. State Defendants will not provide any documents which contain confidential information, trade secrets, sensitive election security information, and/or state secrets, except pursuant to an appropriate protective order. State Defendants further object to this Request as it is unduly burdensome, vague, and overly broad because (1) it requires an extensive search for documents while election officials are conducting elections; (2) there is no pending preliminary-injunction motion and it is too late for any further relief to be ordered for the November 2020 elections, see *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020); *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (per curiam); and (3) it requests documents that are unrelated to the claims and defenses in this case because none of the operative Complaints challenge the ballot scanners or PollPad check-in units. Defendants further object to the Request to the extent it seeks documents subject to attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing objections, State Defendants will produce non-privileged documents responsive to and within the non-objectionable scope of this Request that are located following a reasonable search.

**Request for Production No. 2:**

All documents (a) relating to Dominion Voting System vote mark threshold setting standards adopted by any other state, or adopted or recommended by any government agency; b) constituting or reflecting communications about said threshold settings with (i) county officials in Athens-Clarke, Morgan or Fulton Counties or (ii) Dominion Voting Systems.

**Response:** State Defendants object to this Request as it seeks documents that may contain confidential information, trade secrets, sensitive election security information, and/or state secrets. State Defendants will not provide any documents which contain confidential information, trade secrets, sensitive election security information, and/or state secrets, except pursuant to an appropriate protective order. State Defendants further object to this Request as it is unduly burdensome, vague, and overly broad because (1) it requires an extensive search for documents while election officials are conducting elections; (2) there is no pending preliminary-injunction motion and it is too late for any further relief to be ordered for the November 2020



elections, see *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020); *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (per curiam); and (3) it requests documents that are unrelated to the claims and defenses in this case because none of the operative Complaints challenge ballot scanners or threshold settings. Defendants further object to the Request to the extent it seeks documents subject to attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing objections, State Defendants will produce non-privileged documents responsive to and within the non-objectionable scope of this Request that are located following a reasonable search.

**Request for Production No. 3:**

Communications with county election officials and vendors concerning how the Dominion Voting System can or should be used to protect ballot secrecy and voter privacy.

**Response:** State Defendants object to this Request as it seeks documents that may contain confidential information, trade secrets, sensitive election security information, and/or state secrets. State Defendants will not provide any documents which contain confidential information, trade secrets, sensitive election security information, and/or state secrets, except pursuant

to an appropriate protective order. State Defendants further object to this Request as it is unduly burdensome, vague, and overly broad because (1) it requires an extensive search for documents while election officials are conducting elections; (2) it does not define what “ballot secrecy” and “voter privacy” are in the context of the request; (3) there is no pending preliminary-injunction motion and it is too late for any further relief to be ordered for the November 2020 elections, see *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1205, 1207 (2020); *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (per curiam); and (4) it requests documents that are unrelated to the claims and defenses in this case because Count III of Coalition Plaintiffs’ Supplemental Complaint has been dismissed [Doc. 751, pp. 50-51]. State Defendants further object to the Request to the extent it seeks documents subject to attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing objections, State Defendants will produce non-privileged documents responsive to and within the non-objectionable scope of this Request that are located following a reasonable search.

This 18<sup>th</sup> day of August, 2020

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I served a true and correct copy of the foregoing **STATE DEFENDANTS' OBJECTIONS AND RESPONSES TO COALITION PLAINTIFFS' FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS** on all counsel of record by electronic mail delivery as follows:

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This 18<sup>th</sup> day of August, 2020.

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